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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ALICIA INES MOYA GARAY, JUAN  
JAIME LOPEZ-JIMENEZ, and  
ARRIBA LAS VEGAS WORKER  
CENTER,

Plaintiffs,

vs.

CITY OF LAS VEGAS, a municipality;  
MICHELE FREEMAN, in her official  
capacity as City of Las Vegas Chief of  
Department of Public Safety;  
BANANTO SMITH, in his individual  
capacity and official capacity as Deputy  
Chief of Detention Services;

Defendants.

Case No. 2:20-cv-00119-GMN-EJY

**PLAINTIFFS' REPLY IN SUPPORT OF  
MOTION TO STRIKE DEFENDANTS'  
COUNTER-MOTION FOR SUMMARY  
JUDGMENT**

1  
2 Plaintiffs Arriba Las Vegas Worker Center, Alicia Moya-Garay, and Juan Lopez-  
3 Jimenez (hereinafter, “Plaintiffs”) file this reply in support of their motion to strike [dkt. no.  
4 79] and respectfully request that the Court strike the “Counter-Motion for Summary  
5 Judgment” (the “Counter-Motion”) [dkt. no. 78] filed by Defendants City of Las Vegas, the  
6 Chief of the City of Las Vegas Department of Public Safety, and the Deputy Chief of Las  
7 Vegas Department of Public Safety Detention Services (hereinafter, “Defendants”). On the  
8 basis of Defendants’ own admission, the Counter-Motion represents a dispositive motion.  
9 Because Defendants’ Counter-Motion is an unauthorized and untimely dispositive motion  
10 filed after the deadline for dispositive motions had expired, the Court should strike the  
11 Counter-Motion.  
12

### 13 **BACKGROUND**

14 On October 14, 2021, the Court entered an order extending the deadline to file all  
15 dispositive motions to January 24, 2022 (the “Scheduling Order”). Dkt. No. 68.  
16

17 On January 24, 2022, Plaintiffs filed their “Corrected Motion for Summary Judgment”  
18 (the “Summary Judgment Motion”). Dkt. 72. On February 15, 2022, the Court entered an order  
19 extending the deadline for Defendants to file a response to the Summary Judgment Motion to  
20 February 22, 2022. Dkt. No. 75.

21 On February 22, 2022, Defendants filed an “Opposition to Plaintiffs’ Corrected Motion  
22 for Summary Judgment, Counter-Motion for Summary Judgment and Counter-Motion to  
23 Dismiss.” Dkt. No. 76. On February 23, 2022, the Clerk’s Office for the District of Nevada  
24 generated an automatic email notifying Defendants that their pleading was improperly filed  
25 pursuant to Local Rule IC 2-2(b). Dkt. No. 77.  
26

27 On February 28, 2022, Defendants filed the Counter-Motion. Dkt. No. 78. In the  
28

1 Counter-Motion, Defendants request that the Court enter summary judgment in its favor  
2 under Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56-1.

3 On March 1, 2022, Plaintiffs filed their “Motion to Strike Defendants’ Counter-  
4 Motion for Summary Judgment” (the “Motion to Strike”). Dkt. No. 79. In the Motion to  
5 Strike, Plaintiffs argue that Defendants’ Counter-Motion represents a dispositive motion for  
6 summary judgment guised as a response to Plaintiffs’ Summary Judgment Motion. Plaintiffs  
7 also assert that the Counter-Motion was filed as an attempt to circumvent the Court’s  
8 Scheduling Order, and the January 24, 2022 deadline to file all dispositive motions.  
9

10 On March 15, 2022, Defendants filed a response to the Motion to Strike (the  
11 “Response”). Dkt. No. 85. In the Response, Defendants request that the Court deny the  
12 Motion to Strike because the “material facts in this case are undisputed” and “render a  
13 decision on the parties’ pending dispositive motions.” *Id.* at 3.

### 14 ARGUMENT

15 The Court should strike Defendants’ Counter-Motion as an unauthorized pleading, in  
16 violation of the Court’s Scheduling Order, Federal Rules of Civil Procedure, and Local Rules. In  
17 the Response, Defendants admit that their Counter-Motion represents a dispositive motion for  
18 summary judgment, not a response to Plaintiffs’ Summary Judgment Motion. *See* Dkt. No. 85 at  
19 3 (The Court should “render a decision on the parties’ pending dispositive motions which  
20 resolves the matter in full.”). Defendants further admit that the material facts in this case are not  
21 in dispute.  
22

23 Despite the extended deadline to file all dispositive motions, Defendants failed to file any  
24 dispositive motion by the deadline of January 24, 2022. Instead, Defendants were granted an  
25 extension to file a response to Plaintiffs’ Summary Judgment Motion. Defendants ultimately  
26 filed the Counter-Motion on February 28, 2022. By Defendants’ own admission, the Counter-  
27  
28

1 Motion represents a dispositive motion. Defendants have not requested leave of the Court to file  
2 the Counter-Motion as a motion for summary judgment. Furthermore, in the Response,  
3 Defendants ignore the fact that the deadline to file all dispositive motions expired on January 24,  
4 2022 and provide no justification for the untimely filing; nevertheless, Defendants request that the  
5 Court consider the Counter-Motion and enter summary judgment in its favor. *See* Dkt. No. 79 at  
6 3 (“The material facts in this case are undisputed . . . The City of Las Vegas believes that judicial  
7 economy dictates that the matter be fully decided as a matter of summary judgment by the  
8 Court.”). Defendants have not provided an explanation for why the Court should consider their  
9 unauthorized pleading contrary to the Court’s Scheduling Order.  
10

11 Notwithstanding the untimeliness of Defendants’ dispositive motion, Defendants should  
12 not gain an unfair advantage in this action by ignoring and circumventing the deadlines set forth  
13 in the Court’s Scheduling Order to the detriment of Plaintiffs. Specifically, Defendants filed a  
14 dispositive motion for summary judgment one-month after the deadline for dispositive motions  
15 had expired and after Plaintiffs had filed their Summary Judgment Motion.  
16

17 For the reasons stated above, the Counter-Motion represents a dispositive motion, and  
18 Plaintiffs therefore respectfully request that the Court strike the Counter-Motion because it is  
19 unauthorized and untimely under the Court’s Scheduling Order.  
20

### 21 CONCLUSION

22 Plaintiffs respectfully request that the Court strike Defendants’ Counter-Motion, disregard  
23 all papers filed in connection with it, and refuse to consider any matter raised in the Counter-  
24 Motion. If the requested relief is not granted, in the alternative, Plaintiffs respectfully request that  
25 the Court consider Defendants’ counter-motion for summary judgment only as a response in  
26 opposition to Plaintiffs’ Summary Judgment Motion, without the possibility of summary  
27 judgment for Defendants  
28

1 Dated: March 18, 2022

Respectfully submitted,

2 MEXICAN AMERICAN LEGAL DEFENSE  
3 AND EDUCATIONAL FUND

4 By: /s/ Luis Lozada

Ernest Herrera

Leticia Saucedo

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13 *Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that service of the foregoing *Plaintiffs' Reply in Support of Motion to Strike Defendants' Counter-Motion for Summary Judgment* was made on this 18th day of March 2022, by electronic mail upon all counsel of record.

Dated: March 18, 2022

/s/ Luis Lozada  
Luis Lozada